

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claims 31-34 are pending in this application. Claims 31-34 are amended. Support may be found, for example, in paragraphs [0113] to [0115] of the published application. In particular, the terms “newly” and “persistently” may be found in paragraph [0114], which states that “control section 108 determines allocation of data to preassinged subcarriers (fixed allocation) (step ST1004).” No new matter has been added. (It should be noted that references herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to any particular aspect of the referenced embodiments.)

Claim 31 has been objected to in the Office Action due to informalities. In particular, a comma appears at the end of the claim. Claim 31 has been amended to correct the noted informality.

Claims 31-34 have been rejected under 35 USC 102(b) as anticipated by Hamabe (US 2002/0111163). The rejection is respectfully traversed as follows.

As generally recited in amended claims 31 and 33, the instant invention includes deciding whether to transmit data using a first subcarrier block newly allocated to a terminal or transmit data using a second subcarrier block persistently allocated to the terminal; when the data is decided to be transmitted using the first subcarrier block, transmitting information representing the first subcarrier block and transmitting the data to the terminal using the first subcarrier block, and, when the data is decided to be transmitted using the second subcarrier block, transmitting the data to the terminal using the second subcarrier block persistently allocated to the terminal.

Additionally, and generally recited in amended claims 32 and 34, the instant invention includes determining whether a terminal is newly allocated a first subcarrier block by a base station apparatus, receiving data using the first subcarrier block newly allocated to the terminal designated by the control information when a determination result is positive, and receiving the data using a second subcarrier block that is persistently allocated to the terminal when the determination result is negative.

Significantly, in the instant invention, when a first subcarrier block is not newly assigned to a terminal, the first subcarrier block that was immediately previously allocated to the terminal does not continue to be used. Instead, a second subcarrier block that is persistently allocated to the terminal is used.

Hamabe discloses a method of preventing interference of adjacent frequencies which selects and uses a carrier frequency which is not adjacent to another carrier frequency. As disclosed, for example, in paragraph [0096], a base station newly allocates frequency to mobile stations. Specifically, if a notice is received from mobile station 21 is to inform the allocation of the non-adjacent carrier frequency, base station 11 decides to change the carrier frequency to the non-carrier frequency. However, Hamabe fails to disclose using a frequency that is allocated persistently to a mobile station when a base station does not newly allocate frequency to the mobile station. That is, once a frequency is assigned to a mobile station in Hamabe, the frequency immediately previously allocated to the mobile station continues to be used until a notice is received from the mobile station. More specifically, if a load of the carrier frequency currently in use is greater than the load of the adjacent carrier frequency in step 724, base station 11 decides the change of the carrier frequency to the adjacent carrier frequency in step 725. If, on

the other hand, the load of the carrier frequency currently in use is equal or smaller than the load of the adjacent carrier frequency in step 724, base station 11 does not change the carrier frequency currently in use. If the base station 11 does not receive a notice from mobile station 21 in step 722, base station 11 does not change the carrier frequency now in use. See, paragraphs [0098] and [0099] of Hamabe. This is contrary to the Applicant's claimed invention, in which when a decision is made not to transmit data using a first subcarrier block newly allocated, then data is transmitted using a second subcarrier block persistently allocated to the terminal. That is, rather than not taking any action as in Hamabe, the instant claimed invention persistently allocates a second subcarrier block to the terminal.

Since the recited structure and method are not disclosed by the applied prior art, claims 31-34 are deemed to be allowable.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a personal communication, the Examiner is requested to e-mail the undersigned at the address listed below.

Respectfully submitted,

/James Edward Ledbetter/

Date: May 21, 2010
JEL/KRS/att
Attorney Docket No. 009289-06113
Dickinson Wright PLLC
1875 Eye Street, NW, Suite 1200
Washington, DC 20006
Telephone: (202) 457-0160
Facsimile: (202) 659-1559
E-Mail: jledbetter@dickinsonwright.com
DC 9289-6113 154584

James E. Ledbetter
Registration No. 28,732